

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

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|-----------------------|---|----------------------|
| Dean Michael Gero, | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | File No. 1:07-CV-102 |
| | : | |
| Mimi Brill, State of | : | |
| Vermont Office of the | : | |
| Public Defender, | : | |
| Defendant. | : | |

OPINION AND ORDER
(Paper 7)

Plaintiff Dean Gero, proceeding *pro se* and *in forma pauperis*, brings this case claiming that he was slandered by Attorney Mimi Brill. The complaint also includes vague claims against Attorney Richard Ammons. Because slander is a state law claim, and since the claims against Attorney Ammons are unclear, federal jurisdiction has not been established. In an order dated May 14, 2007, the Court invited Gero to amend his complaint to show that this Court has jurisdiction over the subject matter of his claims.

Gero now presents the Court with a motion to amend in which he explains that he is removing any claims against Attorney Ammons, and that he wishes to proceed with the claim against Attorney Brill "for her slanderish statement made against me." (Paper 7). Because no responsive pleading has been filed, the amendment is allowed "as a matter of course" and is therefore GRANTED. Fed. R. Civ. P. 15(a).

As the Court set forth in its prior order, 28 U.S.C. § 1915 mandates that it conduct an initial screening of an *in forma pauperis* complaint to ensure that the complaint has a legal basis. See 28 U.S.C. §§ 1915(e)(2), 1915A(a). Gero claims that Attorney Brill called him a "'pathological liar,'" and that this statement constitutes slander. As noted previously, slander is a state common law claim, see Lent v. Huntoon, 143 Vt. 539, 545 (1983), and is therefore subject to dismissal for want of federal subject matter jurisdiction. Because the slander claim against Attorney Brill is the sole remaining claim, Gero's complaint is DISMISSED without prejudice.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this
9th day of July, 2007.

/s/ J. Garvan Murtha

J. Garvan Murtha

United States District Judge